

March 31, 1995

DOCKET NO. G-999/CI-90-563

ORDER TERMINATING INVESTIGATION AND CLOSING DOCKET

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
Joel Jacobs
Marshall Johnson
Dee Knaak

Chair
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Commissioner
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In the Matter of an Inquiry into Competition
Between Gas Utilities in Minnesota

ISSUE DATE: March 31, 1995

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PROCEDURAL HISTORY

On June 28, 1990, the Commission issued its ORDER ASSERTING JURISDICTION AND ESTABLISHING COMMENT PERIOD In the Matter of the Joint Venture between Rahr Malting and Western Gas Utilities to Construct a Seven-Mile Gas Pipeline in Scott County, Minnesota, Docket No. G-012/DI-90-227 (the Rahr Malting docket). That docket concerned, among other things, competition between Minnegasco and Western Gas Utilities, Inc. (Western) for the same customers in Scott County, Minnesota. In its June 28 Order, the Commission sought input regarding the issue of two gas utilities competing for customers in the same area. All regulated gas utilities in Minnesota were asked to submit comments on the following two questions:

1. Will the "race" between Minnegasco and Western to capture new customers lead to a wasteful duplication of facilities? If so, does the Commission have the authority to prevent it?
2. Are the inducements currently offered by Minnegasco and Western to potential customers prohibited by their extension policies as approved by the Commission? If not, should the Commission attempt to impose stricter, more consistent policies on all regulated gas utilities?

All regulated gas utilities were also required under the June 28 Order to submit their current service extension tariffs and a description of their current service extension policies.

The eight rate regulated gas utilities in Minnesota¹ submitted tariffs in response to the Commission's Order. All the utilities except Great Plains and Interstate submitted responsive comments.

On August 6, 1990, the Commission issued its ORDER APPROVING OWNERSHIP AND CAPACITY LEASE AGREEMENTS AND REQUIRING FILINGS in the Rahr Malting docket. In that Order, the Commission established the docket herein to address the general subject of competition among gas utilities.

On April 1, 1991, the Commission issued its ORDER CONCLUDING INVESTIGATION In the Matter of Midwest Gas Service Extension Complaints, Docket No. G-010/CI-90-148. In that Order the Commission deferred consideration of issues related to gas service extension to the current docket, G-999/CI-90-563. Complainants had raised concerns regarding the "levelization" of gas hookup charges between residential customers with small lots and those with large lots. The Commission felt that concerns regarding possible subsidization of large lot homeowners by small lot homeowners would be best addressed in the present generic investigation of competition among gas utilities.

On June 4, 1991, the Commission issued its ORDER INITIATING STUDY GROUP in this docket. The Commission found that a number of important policy issues had been raised in this matter and created a study group to look at those issues. Those issues were:

1. Is "levelization" or equal sharing of the costs of gas service extension for all new customers, whether with large lots or small, unfair to customers with smaller lots?
2. Is open competition between local distribution companies of benefit or a detriment to consumers?
3. Should the Commission encourage the use of natural gas fuel by facilitating the piping of more towns and allowing the companies to use incentives for new customers?
4. Does duplication of facilities by competing gas utilities result in economic waste or safety hazards?

¹ At the time, there were eight: Minnegasco, Western, Great Plains Natural Gas Company (Great Plains), Interstate Power Company (Interstate), Midwest Gas Company (Midwest), Northern Minnesota Utilities (NMU), Northern States Power Company (NSP), and Peoples Natural Gas Company (Peoples). With the purchase and absorption of Midwest by Minnegasco, there are now seven.

5. Should there be a uniform service extension tariff and policy?

The study group met several times in 1991. All Minnesota local distribution companies (LDCs) and relevant state agencies were invited to attend these meetings. Various other interested parties were involved in the study group as either participants or invited speakers. In addition, all of the LDCs responded to a survey that asked about the areas in which they provide service and that are served by at least one other utility.

On February 24, 1995, Commission Staff served its Report on the Inquiry into Competition Between Gas Utilities on all parties to this proceeding, recommending that the docket be closed.

On March 23, 1995, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

The question before the Commission at this time is whether this docket should be continued or closed. The Commission finds that this investigation should be terminated and the docket closed. The analysis supporting this conclusion examines the issues raised in the docket under three categories:

- 1) service to areas not currently served,
- 2) Commission response to multiple service providers in an area, and
- 3) review of LDC service extension contracts.

A. SERVICE TO AREAS NOT CURRENTLY SERVED

A brief summary of the developments in this area subsequent to formation of the work group is in order:

The study group explored how to extend gas service to communities that request gas service but cannot be served economically at tariffed rates. In response to this question, three LDCs in 1991 proposed a surcharge mechanism to cover the cost of extending service to new communities.

The Commission was encouraged by these attempts to respond to this problem but found it necessary to reject the three filings.² Instead, the Commission directed the Department and Commission Staff to conduct a study and file a report identifying the policy issues involved in establishing an appropriate regulatory framework for the provision of natural gas service in areas where service is not currently provided because it is not economically justified under currently tariffed rates.

On March 12, 1992, the Department and Commission Staff submitted their Report on Issues for New-area Rates. The report covered financial issues, rate design and various compliance and reporting issues concerning these new rates.

Subsequently, the Commission has received, reviewed and approved new area rates proposals from Northern Minnesota Utilities (NMU), Northern States Power, and Midwest Gas (now Minnegasco).³ An additional new area rates proposal by Minnegasco is pending: Docket No. G-008/M-94-1075.

In view of these developments, the Commission finds that the question of how to encourage natural gas service to new areas has been adequately addressed.

² See the Commission's March 10, 1991 ORDER REJECTING PROPOSED TARIFFS AND REQUIRING REPORTS in three joined matters: In the Matter of a Request by Peoples Natural Gas for Approval of a New Town Least Cost Energy Rate, Docket No. G-011/M-91-296; In the Matter of a Request by Northern Minnesota Utilities for Approval of a New Town Rate, Docket No. G-007/M-91-460; and In the Matter of a Request by Minnegasco for Approval of a New Area Surcharge, Docket No. G-008/M-91-575.

³ In the Matter of a Request by Northern Minnesota Utilities for Approval of a New Town Rate, Docket No. G-007/M-92-212, ORDER APPROVING TARIFF WITH MODIFICATIONS AND REQUIRING FURTHER FILING (May 6, 1992); In the Matter of a Request by Midwest Gas Company for Approval of a New Town Rate Surcharge and a Request for Variance, Docket No. G-010/M-92-785, ORDER APPROVING TARIFF WITH MODIFICATIONS AND REQUIRING FURTHER FILINGS (November 10, 1992); and In the Matter of a Request from Northern States Power Gas Utility for a Miscellaneous Rate Change to Establish a New Area Surcharge, Docket No. G-002/M-94-156, ORDER APPROVING AND MODIFYING NEW AREA SURCHARGE TARIFF (May 13, 1994).

B. SERVICE IN AN AREA BY MORE THAN ONE PROVIDER

Minnesota statutes have not established exclusive gas service areas nor required that gas utilities get certificates of authority from the Commission before extending service to any new area, whether that area is already served by another gas utility or not. Service to an area by more than one provider has occurred in approximately a dozen different places in Minnesota.

Sometimes, in a race to hook up new customers, LDCs drop the excess footage charges or offer to convert a customer's furnace and appliances to natural gas free of charge. On the surface it would appear that there might be wasteful duplication of service and higher per customer costs since there is duplication of large lateral mains running to the area and of regular mains when more than one utility is on the same street.

In addition, competitive situations can tempt utilities to "waive" certain tariffed charges for new customers to the detriment of their current customers. If an LDC, in a race to capture market share and expand its business, neglects to charge for service extensions that the tariffs indicate the LDC should be charging for, then the LDC's other customers wind up paying for the LDC's gain in market share because the excess facilities get put into rate base.⁴

On the other hand, it appears that allowing this level of competition may help promote wider access to natural gas, which is a substantially less expensive fuel than other fuel options such as propane and heating oil. In this light, providing access to natural gas for a greater number of people and, hence, reducing these customers' heating costs may, on balance, outweigh the concern that the competition may result in provision of service somewhat above the lowest possible cost.

No ultimate judgment on this subject is required. First, while recognizing the negative potential cited above, the fact remains that there is no statutory prohibition against competition by two or more gas providers in the same territory. Moreover, it appears that the Commission has the capacity to balance the interests of the utilities, competed-for customers, and current customers on a case by case basis.

⁴ See In the Matter of the Petition of Midwest Gas to Change its Rates for Service Installations and Residential Gas Main Extensions, Docket No. G-010/M-89-374, ORDER APPROVING TARIFF CHANGES AS MODIFIED (August 30, 1989).

C. NEW CUSTOMERS' RIGHTS TO FAIR SERVICE EXTENSION POLICIES AND TARIFFS

Minnesota LDCs provide service to new customers under individual company service extension tariffs. The purpose of a tariffed service extension policy is to ensure that all new customers receive the same treatment. These tariffs specify what length and size of main and service line extension each new customer is entitled to receive without charge and how much they will have to pay for extensions that exceed the free footage allowance.

On the basis of its work in this docket, the Commission finds that its approach to designing LDC service extension rates and policies is reasonable. The Commission's method provides a balance between the two main approaches to service extension rate design.⁵

At the same time, the Commission clarifies that this docket has not reviewed each LDC's service extension policies and tariffs for consistency in terms of service, the fairness of refund provisions, and the inclusion of a customer financing option. The Commission believes that such reviews would be beneficial and will require them in future rate cases. In addition to such reviews, the Commission's Consumer Affairs Office will continue to handle any individual consumer complaints as appropriate.

With respect to the reviews to be conducted in future rate cases, the Commission would like the Department and the parties to address the following kinds of questions:

- Should the "free" footage or service extension allowance include the majority of all new extensions with only the extremely long extensions requiring a customer contribution-in-aid-of-construction (CIAC)?

⁵ The two main theoretical approaches are 1) the rolled-in-rates approach which allows LDCs to extend service to new customers without charge and 2) the incremental-rates approach which requires all new customers to pay their own way, i.e. the full cost of their service extensions, at the time they connect to the LDC's system. The method used by Minnesota LDCs is a compromise between these two opposing approaches.

The Minnesota approach recognizes that residents benefit from having access to natural gas service and Minnesota LDCs benefit from being able to provide that service. In addition, the LDC's policies try to balance the interests of existing customers with new customers so that both groups are able to receive reasonably priced service. Consideration is also usually given to making service extension policies as simple as possible for customers to understand and for utilities to administer.

- How should the LDC determine the economic feasibility of service extension projects and whether the excess footage charges are collected?
- Should the LDC's service extension policy be tariffed in number of feet without consideration to varying construction costs amongst projects or should the allowance be tariffed as a total dollar amounts per customer?
- Is the LDC's extension charge refund policy appropriate?
- Should customers be allowed to run their own service line from the street to the house (or use an independent contractor) if it would be less expensive than having the utility construct the line?
- Should the LDC be required to offer its customers financing for service extension charges? This could be offered as an alternative to paying extension charges in advance of construction.

Finally, the Commission has concern about the impact of service extension-related additions (projects involving multiple customers) on the company's rate base. In future rate cases, the Commission will request the Department to investigate the company's service extension-related additions to rate base to make sure

1. that LDCs are applying their tariffs correctly and consistently,
2. that they are appropriately cost and load justified, and
3. that wasteful additions to plant and facilities are not allowed into rate base.

D. COMMISSION ACTION

On the basis of the foregoing review, the Commission finds that the issues raised in the course of this investigation either have been adequately addressed or are suitably pursued in other proceedings, as indicated in the text of this Order. Accordingly, the Commission will terminate its investigation and close this docket.

In future rate cases initiated by Minnesota regulated gas utilities, the Department and other parties to such proceedings will be invited to develop the record with respect to the issues raised in this Order. As is customary in such proceedings, the Commission's NOTICE AND ORDER FOR HEARING (referral to the Office of Administrative Hearings for contested case proceedings) will contain specific directives regarding issues to be addressed by the parties.

ORDER

1. The Commission's investigation into competition between gas utilities is hereby terminated and the docket created for it (G-999/CI-90-563) is closed.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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